

**INSTRUCTIONS AND INFORMATION REGARDING FILING A
SMALL CLAIM OR A DEBT CLAIM SUIT**

PLEASE READ CAREFULLY

Payment method – exact cash or money order/cashier's check.

No personal checks **nor** credit cards accepted.

1. The amount of money which may be sued for in a **Small Claims** or **Debt Claim Case** is limited to damages that do not exceed **\$20,000.00.** (Effective Sept. 1, 2020)
2. In all civil suits, the Plaintiff(s) has the right to sue the Defendant(s) in the county and precinct in which the Defendant(s) resides. Exceptions to the rule may apply.
3. It is the Plaintiff's burden that for any potential judgment that may be received to be valid, the Plaintiff must sue the Defendant(s) in their proper legal capacity. Of this, there are typically three, as follows:
 - a. Personally: Where an individual is responsible to the Plaintiff for damage the individual may have caused the Plaintiff as an individual.
 - b. Proprietor or partnership: A business that is not incorporated, but does have on file with the County Clerk an assumed name (e.g. John Smith dba Greenhouse Supplies).
 - c. Corporation: The business which has allegedly caused the Plaintiff damage is incorporated and therefore it is necessary to know the individual's name who is able to accept service on behalf of the corporation. (e.g. Greenhouse, Inc., Serve: John Doe).
The authorized agent for service would be listed with the Secretary of State, contact number is (512) 463-5555 Website: <http://www.sos.state.tx.us/>
4. If Plaintiff(s) is in the business of loaning money, primarily (banks, credit unions, savings & loans), Plaintiff is not allowed to file in Small Claims Court; however, an attorney representing any of the above may file suits on behalf of the above in Debt Claim Court or an individual may file. Also, an action in Small Claims court may not be brought by an assignee of claim or other person seeking to bring an action on an assigned claim; or a collection agency.
5. Following documents are needed to complete the Small Claims/Debt Claim process:
 - Information Sheet- Plaintiff must keep the Court updated on all contact information.
 - Petition (*stating facts and circumstances of Plaintiff's suit*) **<Two Pages>**
 - Certificate of Last Known Address
 - Military Affidavit

The Defendant will be served a Citation, along with a copy of Plaintiff's Petition notifying the Defendant that a suit has been filed against them in the respected Court.

The Citation will order the Defendant to appear in Court to answer to the suit by the 14th day from the receipt of the Citation.

THE PLAINTIFF WILL BE NOTIFIED BY MAIL OR E-MAIL AS INDICATED
OF THE SCHEDULED COURT DATE.

6. If Plaintiff(s) chooses to introduce witnesses to the suit, however, said witness(s) will not appear in court voluntarily, the Plaintiff(s) may ask of the Court to subpoena those individuals prior to trial. Allow minimum one week for service of the subpoena. Serving Fee(s) applied (see fee schedule below). Even though the Court will not object to notarized statements from individuals, personal appearance and testimony may be more beneficial to the suit.
7. Small Claim suits typically do not warrant hiring of an attorney; however, having an attorney represent a Plaintiff or Defendant is acceptable.
8. Suits may be dismissed in Open Court or by written *Motion for Dismissal*. If the case is settled prior to the Hearing date and an agreement has been established between said Plaintiff(s) and Defendant(s), notice of such may be submitted to the Court prior to the Hearing date. Note- agreed *Motion for Dismissal* must be signed by both parties of the suit.
9. ***If a Judgment is rendered, the Court does NOT collect said judgment, nor does it force it upon the parties to pay the judgment.*** If in the event the party the judgment filed against fails to pay in a reasonable amount of time, the receiving party may file the following documents in Court: an Abstract of Judgment and/or a Writ of Execution.
 - a. **Abstract of Judgment:** *puts a lien on any real property the Defendant may own in a particular county where the Abstract is recorded. This can be obtained ten (10) days after the judgment has been signed.*
 - b. **Writ of Execution:** *may be obtained thirty (30) days after the judgment has been signed. This document authorizes the Sheriff or Constable to seize any non-exempt property belonging to the Defendant(s). Those assets are then auctioned at a public sale and the proceeds are applied to the judgment. Additional instructions provided at the time of filing.*

FEE SCHEDULE FOR SMALL CLAIMS AND DEBT CLAIMS:

DESCRIPTION	J.P. FEES	CONSTABLE FEES	TOTAL
(Effective January 1, 2022)			\$54.00
Filing Fees			
FILING FEE (IN-COUNTY DEFENDANTS) SMALL CLAIMS & DEBT CLAIM COURT CASES	\$54.00	\$95.00	\$149.00
FILING FEE (OUT-OF-COUNTY DEFENDANT)	\$54.00	Plaintiff must find out from the county where the defendant resides who will serve the papers and how much the fee will be.	
ABSTRACT OF JUDGMENT	\$ 5.00	-----	\$ 5.00
WRIT OF EXECUTION	\$ 5.00	\$250.00	\$255.00
CIVIL SUBPOENA	\$ 5.00	\$ 95.00	\$100.00

JUSTICE COURT CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY): _____

STYLED: _____
(e.g., John Smith vs Jane Doe)

A civil case information sheet must be completed and submitted when an original petition is filed to initiate a new suit. The information should be the best available at the time of filing. This sheet, required by the Rule of Civil Procedure 502, is intended to collect information that will be used for statistical purposes only. It neither replaces nor supplements the filings or service of pleading or other documents as required by law or rule. This sheet does not constitute a discovery request, response, or supplementation, and it is not admissible at trial.

1. Contact information for Party filing case:		2. Names of Parties in Case:	
Name _____ Telephone #: _____ Mailing Address _____ Fax #: _____ City _____ State _____ Zip _____ State Bar No: _____ Email: _____ Signature _____		Plaintiff(s) (as will appear on case): _____ _____ VS Defendant(s) (as will appear on case): _____ _____ Attach additional page as necessary to list all parties	
3. Indicate case type (select only one):			
_____ DEBT CLAIM: A <i>debt claim</i> case is a lawsuit brought to recover a debt by an assignee of a claim, a debt collector or collection agency, a financial institution, or a person or entity primarily engaged in the business of lending money at interest. The claim can be for no more than \$ 20,000, excluding statutory interest and court costs but including attorney fees, if any.		_____ EVICTON: An <i>eviction</i> case is a lawsuit brought to recover possession of real property, often by a landlord against a tenant. A claim for rent may be joined with an eviction case if the amount of rent due and unpaid is not more than \$ 20,000, excluding statutory interest and court costs but including attorney fees, if any.	
_____ REPAIR AND REMEDY: A <i>repair and remedy</i> case is a lawsuit filed by a residential tenant under Chapter 92, Subchapter B of the Texas Property Code to enforce the landlord's duty to repair or remedy a condition materially affecting the physical health or safety of an ordinary tenant. The relief sought can be for no more than \$ 20,000, excluding statutory interest and court costs but including attorney fees, if any.		_____ SMALL CLAIMS: A <i>small claims</i> case is a lawsuit brought for the recovery of money damages, civil penalties, personal property, or other relief allowed by law. The claim can be for no more than \$ 20,000, excluding statutory interest and court costs but including attorney fees, if any.	

PETITION IN DEBT CLAIMS

CAUSE NO. ____ - ____ - J4

Court Date: _____

PLAINTIFF(S)

vs

DEFENDANT(S)

§

IN THE JUSTICE COURT

§

§

PRECINCT 4

§

§

AUSTIN COUNTY, TEXAS

COMPLAINT: The basis for the claim, which entitles the plaintiff to seek relief against the defendant, is:

TO THE HONORABLE JUDGE OF SAID COURT:

This suit is brought to seek relief in means of damages to where said Defendant resides within the boundaries of Precinct 4, Austin County, Texas.

RELIEF: Plaintiff(s) seeks damages in the amount of \$ _____.

SERVICE OF CITATION: Service is requested on Defendant(s) by personal service at home or work or by alternative service as allowed by the Texas Rules of Civil Procedure. Other addresses where the Defendant(s) may be served are: _____

ATTORNEY FEES: Plaintiff (will / will NOT) be seeking applicable attorney fees, in the amount of \$ _____

DAMAGES SOUGHT ARE AS INDICATED:

Credit Card, Revolving Account or Open Account:

Account/Credit Card Name: _____ Account Number: _____

Date of Issue/Origination: _____ Date of Charge-Off/Breach: _____

Amount Owed: \$ _____ as of _____.

Promissory Note or other Promise to Pay Personal or Business Loan:

Date/Amount of Original Loan: _____ - \$ _____

Date final payment due: _____

Amount Due on final payment: \$ _____ Amount due: \$ _____ as of _____.

ONGOING INTEREST:

Plaintiff ☐DOES or ☐DOES NOT seek ongoing interest. If so, this interest is based on the following contractual/statutory reason: _____ and should be at _____%. \$ _____ of interest was due as of _____.

PETITION IN DEBT CLAIMS

ASSIGNMENT OF CLAIM: Plaintiff ☐ WAS or ☐ WAS NOT assigned or otherwise transferred this claim. If so, the original Claimant/Creditor was _____, subsequent holders were _____, and the date the case was assigned/transferred to plaintiff was _____.

REQUEST FOR JUDGMENT: Plaintiff prays that the defendant(s) be served with citation and that plaintiff(s) have judgment against defendant(s) for: relief of damages in the monetary amount indicated, attorney's fees(if indicated), court costs, and interest on the above sums at the statutory rate for judgments allocated by Law.

☐ **I give my consent for the answer and any other motions or pleadings to be sent to my email address which is:**

_____@_____

Printed Name of Plaintiff or
Plaintiff's Attorney

Signature of Plaintiff
or Plaintiff's Attorney

Address of Plaintiff or Plaintiff's Attorney:

Address City State Zip

Phone and/or Fax No. of Plaintiff or Plaintiff's Attorney

1. Defendant's Information (if known):

Date of birth: _____
Last three digits of Driver License: _____
Last three digits of Soc. Sec. No.: _____
Phone No.: _____

2. Defendant's Information (if known):

Date of birth: _____
Last three digits of Driver License: _____
Last three digits of Soc. Sec. No.: _____
Phone No.: _____

Sworn to and subscribed before me on this _____ day of _____, 20_____

Clerk of the Court

CAUSE NO. _____

_____	§	IN THE JUSTICE COURT
PLAINTIFF	§	
	§	
V.	§	PRECINCT 4
	§	
_____	§	
DEFENDANT	§	AUSTIN COUNTY, TEXAS

NOTICE OF DEFENDANT'S LAST KNOWN MAILING ADDRESS

The undersigned certifies that the last known mailing address of the defendant in this case is:

Defendant's Name: _____

Defendant's Last Known Address: _____

City

State

Zip

Respectfully submitted,

(Signature of Plaintiff or Plaintiff's Attorney of Record)

Date

Printed Name: _____

Sworn to and subscribed before me on this _____ day of _____, 20____

Public Notary or Clerk of the Court,
Justice of the Peace, Pct 4 Austin County, Texas

CAUSE NO. _____

_____	§	IN THE JUSTICE COURT
PLAINTIFF	§	
	§	
v.	§	PRECINCT 4
	§	
_____	§	
DEFENDANT	§	AUSTIN COUNTY, TEXAS

SERVICEMEMBER'S CIVIL RELIEF ACT AFFIDAVIT

Instructions: The Servicemember's Civil Relief Act applies to a civil proceeding in the Justice Courts. Before entering a default judgment against an individual defendant, the plaintiff must file with the court an affidavit stating whether or not the defendant is in military service, showing necessary facts to support the affidavit, or stating that the plaintiff is unable to determine whether or not the defendant is in military service, if that is the case. The requirement for an affidavit may be satisfied by a written, signed document declared to be true under penalty of perjury. If it appears that the defendant is in military service, the court may not enter a judgment until after the court appoints an attorney to represent the defendant. If the court is unable to determine if the defendant is in military service, the court may require the plaintiff to file a bond in an amount approved by the court. To obtain certificates of service or non-service under the Servicemember's Civil Relief Act, you may access the public website: <https://scra.dmdc.osd.mil/scra/#/login>. This website will provide the current active military status of an individual.

Plaintiff being duly sworn under oath swears that Defendant is: (*check one*)

- ☐ not in the military
- ☐ not on active duty in the military
- ☐ on active military duty and/or is subject to the Servicemember's Civil Relief Act of 2003
- ☐ has waived in writing his/her rights under the Servicemember's Civil Relief Act of 2003
- ☐ military status is unknown at this time

PLAINTIFF

SWORN TO AND SUBSCRIBED before me on _____, 20____.

CLERK OF THE JUSTICE COURT OR NOTARY

**Penalty for making or using false affidavit – a person who makes or uses an affidavit knowing it to be false, shall be fined as provided in Title 18, United States Code, or imprisoned for not more than one year or both.*